

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

COY PHELPS,)	
)	
)	
)	
Plaintiff,)	
v.)	Civil Action No. 05-40003-GAO
)	
DAVID WINN, et al.,)	
)	
)	
Defendants)	
)	

**MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO
PLAINTIFF'S MOTION TO TAKE JUDICIAL NOTICE**

Defendants in the above-captioned action move for an extension of time to file a response to Plaintiff's Motion to Take Judicial Notice up to and including May 22, 2006. Defendants received Plaintiff's Motion through the after the close of business on April 28, 2006. Pursuant to Local Rule 7.1, Defendants' opposition to Plaintiff's Motion is due by May 12, 2006. However, Assistant U.S. Attorney, Damian W. Wilmot, counsel for Defendants, was out of the office and on leave from April 29, 2006, through May 7, 2006. The undersigned avers that the brief extension is needed in order for counsel to complete the factual research necessary to respond to Plaintiff's Motion and obtain declarations from Federal Bureau of Prisons officials if necessary. Accordingly, Defendants request a brief extension of time to file a response to Plaintiff's Motion until May 22, 2006.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney
Moakley Federal Courthouse

Dated: May 11, 2006

One Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

CERTIFICATION UNDER L.R. 7.1

Because Plaintiff is a pro se prisoner currently incarcerated in a federal correctional facility, counsel for the United States respectfully requests leave to file this Motion without a 7.1 conference. It is the undersigned's position that because the Plaintiff is *pro se* a 7.1 conference is unnecessary, as that Rule pertains to "counsel."

/s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I certify that on May 11, 2006, I caused a copy of the foregoing Memorandum to be served on Petitioner by first class mail, postage pre-paid to Coy Phelps (78872-011), FMC-Devens, 42 Patton Road, P.O. Box 879, Ayer, MA 01432.

/s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney